

# Contempt of court possible if McCleary demands unmet

Legislators considering methods to fund public education to standards set by state's high court

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State Attorney General Bob Ferguson says the Legislature is in a “tough spot” with the state Supreme Court over school funding and that the possibility of being held in contempt is serious business.

“Of course, that’s uncharted territory,” Ferguson said. “I think it’s fair to say my legal team thinks it’s especially rare.”

Ferguson spoke about the McCleary school-funding case Thursday with The Olympian’s editorial board. He said it is too early to gauge whether the court would take

drastic measures to enforce its 2012 decision mandating adequate funding of public schools.

But, the Democrat said, “Being held in contempt is no joke. ... Obviously we would want to avoid that at all costs.” He said he could not yet rule out jail as a possibility for lawmakers if they failed to at least produce a plan for better school funding.

“My legal team has had meetings with staff at the Legislature,” Ferguson said. “... What I can say is there is a wide range of views among (members of the) Legislature about the meaning of the order and their response.”

Last week, in an order signed by Chief Justice Barbara Madsen and seven other justices, the court said lawmakers need to move faster to provide more funding for schools.

The order acknowledged that lawmakers took “meaningful steps” last year by putting \$982 million of new money into K-12 schools, but said they were falling short of reaching full funding by 2018, the deadline set by the McCleary decision. The court told the Legislature to explain by April 30 how it can invest the \$3.35 billion that a task force on education funding recommended for 2015-17 and the \$4.48 billion recommended for 2017-19.

“We have no wish to be forced into entering specific funding directives to the state, or, as some high courts have done, holding the Legislature in contempt of court,” the court said. “But, it is incumbent upon the state to demonstrate, through immediate, concrete action, that it is making real and measurable progress, not simply promises.”

Lawmakers in the Senate this week began exchanging letters expressing interest in deciding how to proceed. Senate Republicans suggested meetings by all four legislative caucuses and Gov. Jay Inslee — what is known around the Capitol as a “five corners” process. Senate Democrats said they are “willing to meet daily until April 30th” to create a plan.

Over in the House, Majority Leader Pat Sullivan, D-Covington, said he and others were discussing what kind of financial commitment the Legislature could make to K-12 schools this year in response to the court’s order.

Inslee’s spokesman, David Postman, said the governor has not settled on a path toward answering the court. Inslee has proposed putting an extra \$200 million into K-12 schools in a supplemental budget. But he hasn’t spelled out all of the places it would go or how he would raise revenue to do it.

Some Republicans remain defiant — including Sen. Michael Baumgartner of Spokane, who accused the court of driving “far out of their lane” on judging the Legislature’s actions.

“This is on the verge of creating a constitutional crisis,” Baumgartner said Friday. “I absolutely don’t think there should be a response from the Legislature (in this legislative session). I think we should continue to produce a budget as we usually do.”

House Republican caucus leaders, including Dan Kristiansen of Snohomish and Joel Kretz of Wauconda, also have accused the court of stepping into what they consider the Legislature’s business of writing budgets.

They appear to have support from one member of the court. Justice Jim Johnson dissented from the court’s latest order, saying in a separate opinion issued this week that the court was violating the state constitution by intervening in a school budgeting domain that belonged strictly to the Legislature.

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